

## General Overview



### Maintaining Student Records and Meeting Confidentiality Requirements under the

*Family Education Rights and Privacy Act—**FERPA***

*Individuals with Disabilities Education Act—**IDEA***


*Section 504 of the rehabilitation Act—**504***

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## Confidentiality

It is important for all school staff, including volunteers and paraeducators, to understand the importance of keeping confidentiality regarding student educational records.




## Student Information

Should only be shared with individuals with a *NEED AND A RIGHT TO KNOW.*




## Authority

- Confidentiality is addressed through
  - FERPA;
  - IDEA; and
  - Section 504.



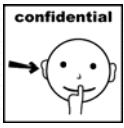
## Student Records

It is important to keep accurate and objective information in each student's educational record.



## Access

- Whenever you “access” a student record, sign in on the **access log** in the folder.
- Include your name and reason for access.



## Parent Notification

FERPA regulations at 34 CFR99.7(a)(1) state that each school shall annually notify parents of students currently in attendance, or eligible students currently in attendance, of their rights under FERPA.



## Record Retention

While FERPA does not impose any specific timelines for records retention, it does create three implied maintenance requirements:

- A school must retain a log of requests for access to, and disclosure of, personally identifiable information from students' records for so long as the education records themselves are maintained.
- If a parent placed an explanatory statement in the students' education records commenting on the accuracy of the information contained therein, the statement must be maintained for so long as the education records themselves are maintained.
- A school (or State) may not destroy any education records if there is an outstanding request by a parent to inspect and review the records.

## Age of Majority

Parents transfer their rights under FERPA to their child when he or she "has attained 18 years of age or is attending an institution of postsecondary education."



## Divorce

Divorce does not affect a parent's FERPA rights unless the underlying domestic proceedings deal directly with the issue by specifically revoking a divorced parent's rights. Unlike the regulations promulgated under the Individuals with Disabilities Education Act, the FERPA regulations squarely confront the possibility that a student's parent will be, or becomes, divorced.

## Medical Records

School health and medical records are considered education records, with the exception of "treatment records" for students age 18 or older. As the statute and regulations make clear, education records encompass more than information about a student's academic performance.



## Protocols

OSEP stated in a policy letter that test protocols that do not contain personally identifiable information are not education records. Documents such as test instruments and interpretative materials that do not contain the student's name are not considered to be directly related to the student.



## Record Amendment Process

When a parent believes the information contained in the student's education record is inaccurate, misleading, or in violation of the privacy or other rights of the student, the parent may ask the school district to amend the record. If the school district decides not to amend the record, the parent shall be informed of their right to request a due process hearing under FERPA 99.21, 99.22.

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## Amendment Process

A parent should complete a written request, with the assistance of the school to the extent required, advising the following:

- Information that is claimed to be inaccurate, misleading, or in violation of the student's privacy rights
- Education records in which the parent believes the information is contained
- Basis for parent's claim (i.e., why the parent believes the information is inaccurate)
- Parent's proposed change

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## Hearing

The hearing may be conducted by any individual, including an official of the school district, who does not have a direct interest in the outcome of the hearing.



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## Outcome of Hearing

If the school district prevails the parent stills has the right to put a written statement in the student's folder explaining why they think the information is not accurate.



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## Outcome of Hearing

If the parent prevails, the school district must amend or remove the inaccurate information from the student's record.



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## Confidentiality

Remember—  
Breaking confidentiality requirements is against the law.



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